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5 Strike everything after the enacting clause and insert the  
6 following:

7 "NEW SECTION. **Sec. 1.** A new section is added to chapter 46.61 RCW  
8 to read as follows:

9 (1) Upon the arrest of a person or upon the filing of a complaint,  
10 citation, or information in a court of competent jurisdiction, based  
11 upon probable cause to believe that a person has violated RCW 46.61.502  
12 or 46.61.504 or any similar municipal ordinance, if such person has a  
13 previous conviction for violation of either RCW 46.61.502 or 46.61.504  
14 or other similar municipal ordinance, and where the offense occurs  
15 within a five-year period of the previous conviction, and where the  
16 person has been provided written notice that any transfer, sale, or  
17 encumbrance of such person's interest in the vehicle over which that  
18 person was actually driving or had physical control when the violation  
19 occurred, is unlawful pending either acquittal, dismissal, sixty days  
20 after conviction, or other termination of the charge, such person shall  
21 be prohibited from encumbering, selling, or transferring his or her  
22 interest in such vehicle, except as otherwise provided in (a), (b), and  
23 (c) of this subsection, until either acquittal, dismissal, sixty days  
24 after conviction, or other termination of the charge. The prohibition  
25 against transfer of title shall not be stayed pending the determination  
26 of an appeal from the conviction.

27 (a) A vehicle encumbered by a bona fide security interest may be  
28 transferred to the secured party or to a person designated by the  
29 secured party;

30 (b) A leased or rented vehicle may be transferred to the lessor,  
31 rental agency, or to a person designated by the lessor or rental  
32 agency; and

33 (c) A vehicle may be transferred to a third party or a vehicle  
34 dealer who is a bona fide purchaser or may be subject to a bona fide  
35 security interest in the vehicle unless it is established that (i) in  
36 the case of a purchase by a third party or vehicle dealer, such party

1 or dealer had actual notice that the vehicle was subject to the  
2 prohibition prior to the purchase, or (ii) in the case of a security  
3 interest, the holder of the security interest had actual notice that  
4 the vehicle was subject to the prohibition prior to the encumbrance of  
5 title.

6 (2) On a second or subsequent conviction for a violation of either  
7 RCW 46.61.502 or 46.61.504 or any similar municipal ordinance where  
8 such offense was committed within a five-year period of the previous  
9 conviction, the motor vehicle the person was driving or over which the  
10 person had actual physical control at the time of the offense, if the  
11 person has a financial interest in the vehicle, is subject to seizure  
12 and forfeiture pursuant to this section.

13 (3) A vehicle subject to forfeiture under this chapter may be  
14 seized by a law enforcement officer of this state upon process issued  
15 by a court of competent jurisdiction. Seizure of a vehicle may be made  
16 without process if the vehicle subject to seizure has been the subject  
17 of a prior judgment in favor of the state in a forfeiture proceeding  
18 based upon this section.

19 (4) Seizure under subsection (3) of this section automatically  
20 commences proceedings for forfeiture. The law enforcement agency under  
21 whose authority the seizure was made shall cause notice of the seizure  
22 and intended forfeiture of the seized vehicle to be served within  
23 fifteen days after the seizure on the owner of the vehicle seized, on  
24 the person in charge of the vehicle, and on any person having a known  
25 right or interest in the vehicle, including a community property  
26 interest. The notice of seizure may be served by any method authorized  
27 by law or court rule, including but not limited to service by certified  
28 mail with return receipt requested. Service by mail is complete upon  
29 mailing within the fifteen-day period after the seizure. Notice of  
30 seizure in the case of property subject to a security interest that has  
31 been perfected on a certificate of title shall be made by service upon  
32 the secured party or the secured party's assignee at the address shown  
33 on the financing statement or the certificate of title.

34 (5) If no person notifies the seizing law enforcement agency in  
35 writing of the person's claim of ownership or right to possession of  
36 the seized vehicle within forty-five days of the seizure, the vehicle  
37 is deemed forfeited.

38 (6) If a person notifies the seizing law enforcement agency in  
39 writing of the person's claim of ownership or right to possession of

1 the seized vehicle within forty-five days of the seizure, the law  
2 enforcement agency shall give the person or persons a reasonable  
3 opportunity to be heard as to the claim or right. The hearing shall be  
4 before the chief law enforcement officer of the seizing agency or the  
5 chief law enforcement officer's designee, except where the seizing  
6 agency is a state agency as defined in RCW 34.12.020, the hearing shall  
7 be before the chief law enforcement officer of the seizing agency or an  
8 administrative law judge appointed under chapter 34.12 RCW, except that  
9 any person asserting a claim or right may remove the matter to a court  
10 of competent jurisdiction. Removal may only be accomplished according  
11 to the rules of civil procedure. The person seeking removal of the  
12 matter must serve process against the state, county, political  
13 subdivision, or municipality that operates the seizing agency, and any  
14 other party of interest, in accordance with RCW 4.28.080 or 4.92.020,  
15 within forty-five days after the person seeking removal has notified  
16 the seizing law enforcement agency of the person's claim of ownership  
17 or right to possession. The court to which the matter is to be removed  
18 shall be the district court when the aggregate value of the vehicle is  
19 within the jurisdictional limit set forth in RCW 3.66.020. A hearing  
20 before the seizing agency and any appeal therefrom shall be under Title  
21 34 RCW. In a court hearing between two or more claimants to the  
22 vehicle involved, the prevailing party shall be entitled to a judgment  
23 for costs and reasonable attorneys' fees. The burden of producing  
24 evidence shall be upon the person claiming to be the legal owner or the  
25 person claiming to have the lawful right to possession of the vehicle.  
26 The seizing law enforcement agency shall promptly return the vehicle to  
27 the claimant upon a determination by the administrative law judge or  
28 court that the claimant is the present legal owner under Title 46 RCW  
29 or is lawfully entitled to possession of the vehicle.

30 (7) When a vehicle is forfeited under this chapter the seizing law  
31 enforcement agency may sell the vehicle, retain it for official use, or  
32 upon application by a law enforcement agency of this state release the  
33 vehicle to that agency for the exclusive use of enforcing this title;  
34 provided, however, that the agency shall first satisfy any bona fide  
35 security interest to which the vehicle is subject under subsection (1)  
36 (a) or (c) of this section.

37 (8) When a vehicle is forfeited, the seizing agency shall keep a  
38 record indicating the identity of the prior owner, if known, a  
39 description of the vehicle, the disposition of the vehicle, the value

1 of the vehicle at the time of seizure, and the amount of proceeds  
2 realized from disposition of the vehicle.

3 (9) Each seizing agency shall retain records of forfeited vehicles  
4 for at least seven years.

5 (10) Each seizing agency shall file a report including a copy of  
6 the records of forfeited vehicles with the state treasurer each  
7 calendar quarter.

8 (11) The quarterly report need not include a record of a forfeited  
9 vehicle that is still being held for use as evidence during the  
10 investigation or prosecution of a case or during the appeal from a  
11 conviction.

12 (12) By January 31st of each year, each seizing agency shall remit  
13 to the state treasurer an amount equal to ten percent of the net  
14 proceeds of vehicles forfeited during the preceding calendar year.  
15 Money remitted shall be deposited in the public safety and education  
16 account.

17 (13) The net proceeds of a forfeited vehicle is the value of the  
18 forfeitable interest in the vehicle after deducting the cost of  
19 satisfying a bona fide security interest to which the vehicle is  
20 subject at the time of seizure; and in the case of a sold vehicle,  
21 after deducting the cost of sale, including reasonable fees or  
22 commissions paid to independent selling agents.

23 (14) The value of a sold forfeited vehicle is the sale price. The  
24 value of a retained forfeited vehicle is the fair market value of the  
25 vehicle at the time of seizure, determined when possible by reference  
26 to an applicable commonly used index, such as the index used by the  
27 department of licensing. A seizing agency may, but need not, use an  
28 independent qualified appraiser to determine the value of retained  
29 vehicles. If an appraiser is used, the value of the vehicle appraised  
30 is net of the cost of the appraisal.

31 **Sec. 2.** RCW 46.12.270 and 1993 c 487 s 6 are each amended to read  
32 as follows:

33 Any person violating RCW 46.12.250(~~(7)~~) or 46.12.260(~~(7—~~or  
34 ~~46.12.410)~~) or who transfers, sells, or encumbers an interest in a  
35 vehicle in violation of section 1 of this act, with actual notice of  
36 the prohibition, is guilty of a misdemeanor and shall be punished by a  
37 fine of not more than two hundred fifty dollars or by imprisonment in  
38 a county jail for not more than ninety days.

1        NEW SECTION.   **Sec. 3.**   The following acts or parts of acts are each  
2 repealed:

- 3        (1) RCW 46.61.511 and 1993 c 487 s 2;
- 4        (2) RCW 46.61.512 and 1993 c 487 s 3;
- 5        (3) RCW 46.12.400 and 1993 c 487 s 4; and
- 6        (4) RCW 46.12.410 and 1993 c 487 s 5."

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